

**STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF LABOR**  
**CONCORD, NEW HAMPSHIRE**



V

**AMERICAN TIRE AND BRAKE**

**DECISION OF THE HEARING OFFICER**

**Nature of Dispute:** RSA 275:43 I unpaid wages  
RSA 275:43-b unpaid salary  
RSA 275:43 V unpaid vacation time

**Employer:** American Tire & Brake, 119 Maple Street, Claremont, NH 03743

**Date of Hearing:** May 25, 2016

**Case No.:** 52547

**BACKGROUND AND STATEMENT OF THE ISSUES**

A Wage Claim was filed with the Department of Labor on March 17, 2016. The notice was sent to the employer and there was an objection. The objection was sent to the claimant and there was a request for a hearing. The Notice of Hearing was sent to both parties on April 28, 2016.

The claimant testified that he was a salaried employee at the rate of \$500.00 per week. The pay period was weekly and was from Monday to Friday. The claimant testified that he worked on a Monday and went to work on Tuesday but left early due to feeling of illness. He testified that the employer called him on that Tuesday and told him to come and get his tools. The claimant feels that he was terminated from his job and that because he is salaried employee, he is entitled to the full salary for the pay period.

The claimant also testified that he was due a week of vacation time for the year.

The employer testified that he felt the claimant quit by just leaving his job on that Tuesday without any notice. The employer further testified that he was willing to pay the claimant for one day of work and a proration of accrued vacation time. He said the amount came to \$433.32 but he would pay the \$500.00 requested.

**FINDINGS OF FACT**

RSA 275:43 I Every employer shall pay all wages due to employees within 8 days including Sunday after expiration of the week in which the work is performed.

This is the part of the law that mandates an employer to pay all wages due at the time the wages are due and owing.

RSA 275:43-b A salaried employee shall receive full salary for any pay period in which such employee performs any work without regard to the number of days or hours worked; provided.

This section of the law describes how and why a salaried employee is to be paid.

RSA 275:43 V Vacation pay, severance pay, personal days, holiday pay, sick pay, and payment of employee expenses, when such benefits are a matter of employment practice or policy, or both, shall be considered wages pursuant to RSA 275:42, III, when due.

In this section of the law an issue such as vacation time becomes wages when the time is due and owing.

The claimant accepted the offer of \$500.00 to close the claim. The employer will send the check in when the decision is in writing and he receives the decision.

The Wage Claim is settled in the amount of \$500.00. This settlement was mutually agreed to by both parties.

### **DECISION AND ORDER**

The employer is hereby ordered to send a check to this Department, payable to Burton R. Bolton in the total of \$500.00, less any applicable taxes, within 20 days of the date of this Order.

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Thomas F. Hardiman  
Hearing Officer

Date of Decision: May 27, 2016

Original: Claimant

cc: Employer

TFH/aph